



THOMAS J. VILSACK , GOVERNOR  
SALLY J. PEDERSON, LT. GOVERNOR

IOWA DEPARTMENT OF COMMERCE  
CREDIT UNION DIVISION  
JAMES E. FORNEY  
SUPERINTENDENT

## INTERPRETIVE BULLETIN

DATE: July 1, 1992  
TO: ALL STATE CHARTERED CREDIT UNION  
FROM: JAMES E. FORNEY  
SUBJECT: CREDIT UNION EMPLOYEE/DIRECTOR OVERDRAFTS

An overdraft which occurs in an employee's or director's credit union share, sharedraft or deposit account, where a line of credit loan has not been previously established to cover such overdraft; or, where sufficient funds are not on deposit at the credit union and immediately available to cover such overdraft; and, which obligates credit union funds for a period of time; and, where it is reasonable to assume the employee or director has or should have had knowledge of the occurrence; then, the overdraft condition could be considered an "unapproved loan" and/or a misappropriation of funds by the person involved. Where a habitual or sizable overdraft condition in an employee/director account is determined during the course of an examination, several sections of the Iowa Code may apply and be cited for violation:

"A credit union may loan to a member for a provident or productive purpose."; and, "a loan shall be pursuant to an application with supportive credit information." [See **Iowa Code Subsection 533.16 (1)** (1992) ]; and,

"Any director, officer, agent, employee, or clerk of any credit union who ...shall knowingly divert the funds of the credit union to other objects than those authorized by law, shall be guilty of a fraudulent practice and be forever after barred from holding any office created by this chapter." [See **Iowa Code Section 533.31** (1992) ]

If the Board of Directors of the affected credit union fails to take appropriate action regarding the cited violations, the Credit Union Division may take one or more of the following administrative action steps as provided in the Iowa Code:

"The Superintendent may impose a penalty on a credit union for each loan made in violation of this section." [See **Iowa Code Subsection 533.16 (8)** (1992)]; and,

“If the Superintendent has reason to believe that an officer, director, employee, or committee member of a credit union has violated any law, rule, or cease and desist order relating to a credit union or has engaged in an unsafe or unsound practice in conducting the business of a credit union, the Superintendent may cause notice to be served upon the officer, director, employee, or committee member to appear before the Superintendent to show cause why the person should not be removed from office or employment.”  
[See **Iowa Code Subsection 533.6 (5)** (1992) ]

The Credit Union Division recognized that a one-time, nominal amount overdraft can occur in an employee’s or director’s account. Such an overdraft is not intended to be considered a violation of the Iowa Code.

The Credit Union Division considers habitual or severe overdrafts of a credit union employee’s or director’s account to be an abuse of office or position, and a serious violation of the Code of Iowa. Such activity is to be neither permitted nor condoned.